

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

LUIS LEONCIO JEREZ-VALDEZ

Defendant

CRIMINAL 08-0361CCC

SEALED EX-PARTE ORDER

Upon receiving the government's sealed ex-parte Motion to Continue filed on May 1, 2009 (docket entry 36), the Court vacated the May 8, 2009 trial setting. Movant's request for a six-month continuance is now addressed by the Court since by separate Order it has reset, within speedy trial constraints, the jury trial for June 4, 2009. The declaration under penalty of perjury of Gilberto Figueroa, ICE Senior Special Agent, dated May 1, 2009, does not contain factual data that would justify a postponement of trial beyond June 6, 2009, the speedy trial deadline, much less a six-month continuance until November 2, 2009 as requested. The relevant data regarding the "potential threat" to the key government witness is that he has been informed by a person relating to the Jerez-Valdez brothers that José Eduardo Jerez-Valdez, who is not a defendant in this case, told him that he believed that both he and the witness were providing information to the authorities and that the government witness informed the agents that he fears for his life. Despite his perceived fears, the witness travels every week to the Dominican Republic to conduct business, a place where he knows that Mr. José Eduardo Jerez-Valdez is purportedly hiding and that he has actually already encountered him there. The remedy for this situation is certainly not a six-month continuance in circumstances which do not justify an excludable-delay finding. There is no allegation that the defendant Luis Leoncio Jerez Valdés has taken any action or made any expression that could be deemed a threat to the witness. The witness' testimony at Luis Leoncio Jerez-Valdez trial cannot be conditioned upon a six-month continuance of the latter's trial.

The fact that defendant Luis Leoncio Jerez-Valdez has been released on bail does not deprive him of his right to a speedy trial.

For the reasons stated, the Court rules that the six-month continuance requested on **docket entry 36** is not justified. The case will be tried on June 4, 2009, as already scheduled.

This Order shall only be notified to the United States.

SO ORDERED.

At San Juan, Puerto Rico, on May 14, 2009.

S/CARMEN CONSUELO CEREZO
United States District Judge